APPEAL NO. 010234

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 17, 2001. The hearing officer held that the respondent's (claimant) cervical problems occurred as a result of his _____, injury. The appellant (carrier) had accepted a right shoulder and later-manifesting right elbow injury as a result of that accident. The hearing officer did not find that claimant had proved a causal connection of his headaches to that accident.

The carrier appeals. Essentially, the carrier's position is that if early medical records did not mention pain from a certain region of the body, or if a claimant testifies that he did not fully appreciate pain from that region until some time after the original injury, it cannot be related to the injury. The claimant responds that the decision and order be affirmed.

DECISION

We affirm the hearing officer's decision.

The hearing officer did not err in finding that the claimant's cervical conditions (listed in the issue in the decision) resulted from his _____, accident. While the carrier argues that certain facts in the record should have been believed over others, the hearing officer was well within his duty as the sole judge of the weight and credibility of the evidence in choosing to believe that the claimant injured his cervical spine when he hoisted an unsteady box to his right shoulder and had to twist in order to make sure the box did not topple. There was also medical opinion in support of this injury as well as medical opinion that if there had been a herniation at the time of the accident, the mechanism of the accident would have aggravated it. Finally, the claimant testified that he had neck discomfort which grew to pain over time, and an objective test, in fact, found a herniated cervical disc of considerable size. Generally, lay testimony establishing a sequence of events which provides a strong, logically traceable connection between the event and the condition is sufficient proof of causation. Morgan v. Compugraphic Corp., 675 S.W.2d 729, 733 (Tex. 1984). While the carrier raised the possibility that the herniation was either preexisting or resulted from (unspecified) other causes, no proof of this was offered. The shoulder injury was severe enough to result in two surgeries. The carrier readily accepted that a later-manifesting right elbow problem was part of that injury. The hearing officer likewise believed that later-manifesting pain and the lack of recording of discomfort in earlier records was not dispositive of the matter of causal connection and believed the testimony of the claimant's treating doctor as to how severe pain in one region could act to "mask" an injury to another region.

The decision of the hearing officer will be set aside only if the evidence supporting the hearing officer's determination is so weak or against the overwhelming weight of the evidence as to be clearly wrong or manifestly unjust. Atlantic Mutual Insurance Company v. Middleman, 661 S.W.2d 182 (Tex. App.-San Antonio 1983, writ

ref'd n.r.e.). We cannot agree that this is the case here, and affirm the decision and order.

Susan M. Kelley
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge